

535B.13 Enforcement.

1. The administrator has cease and desist powers as follows:

a. For the purposes of this subsection, “*administrator*” means either the superintendent of banking or the official or agency charged with enforcing this chapter, or parts thereof, against the person under investigation.

b. If the administrator has reason to believe that a person has been or is in violation of this chapter or rules adopted under this chapter, after notice and hearing, the administrator may order a person to cease and desist from violating any provision of this chapter or rules adopted under this chapter.

c. The administrator, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of all records or other documents which the administrator deems relevant to the inquiry. In case of a refusal of a person to comply with a subpoena issued under this section or to testify with respect to any matter relevant to the proceeding, on application of the administrator, the district court of Polk county may issue an order requiring the person to comply with the subpoena and to testify. A failure to obey an order of the court to comply with the subpoena may be punished by the court as a civil contempt. A cease and desist hearing need not observe any formal rules of pleading or evidence.

d. If after the hearing, the administrator finds that the person charged has violated this chapter or rules adopted under this chapter, the administrator shall issue written findings, a copy of which shall be served upon the person charged with the violations, along with an order requiring the person to cease and desist from engaging in the violations.

e. A person aggrieved by a cease and desist order of the administrator may obtain judicial review of the order and the administrator may obtain an order of the Polk county district court for the enforcement of the cease and desist order.

f. A proceeding for review must be initiated within thirty days after the aggrieved person receives the cease and desist order. If no proceeding is initiated, the administrator may obtain a decree of the Polk county district court for enforcement of the cease and desist order.

g. A person who violates a cease and desist order of the administrator may, after notice and hearing, and upon further order of the administrator, be subject to a penalty of not more than five thousand dollars for each act or violation of the cease and desist order.

2. The administrator may request the attorney general to enforce the provisions of this chapter. A civil enforcement action by the attorney general may be filed in equity in either the county in which the violation occurred or Polk county. A civil enforcement action by the attorney general may seek any or all of the following:

a. Temporary and permanent injunctive relief.

b. Restitution for a mortgagor aggrieved by a violation of this chapter.

c. Costs for the investigation and prosecution of the enforcement action including attorney fees.

3. This chapter does not limit the power of the attorney general to determine that any other practice is unlawful under the Iowa consumer fraud Act, section 714.16, and to file an action under that section.

88 Acts, ch 1146, §13; 91 Acts, ch 65, §2

For future amendment to this section effective July 1, 2011, see 2010 Acts, ch 1111, §8, 13